

## Income/Franchise:

### Texas Supreme Court Denies Review of Taxpayer Favorable Case Involving Reduced Rate and COGS Deduction

*Case No. 21-1011*, Tex. (reviewed denied 1/27/23). The Texas Supreme Court denied the Texas Comptroller of Public Accounts' request for review of a recent Texas Court of Appeals opinion, which held that a company engaged in selling business equipment using certain "sales-type leases" (i) qualified for the reduced Texas franchise tax rate applicable to entities primarily engaged in retail or wholesale trade, and (ii) may include costs related to the sales-type leases in its Texas cost of goods sold (COGS) deduction [see *Case No. 14-19-00358-CV*, Tex. Ct. App. (8/31/21) and *State Tax Matters*, Issue 2021-35, for more details on this 2021 opinion]. For purposes of rendering an opinion, the Texas Court of Appeals examined the company's sales-type leases, which were generally for the entirety of the economic life of the leased equipment. Ultimately, the Texas Court of Appeals held the leases constituted "wholesale trade" under Texas Tax Code section 171.0001(18), which supported the company's ability to qualify for the reduced rate under Texas Tax Code section 171.002(c) for the periods at issue. Regarding the COGS deduction, the Texas Court of Appeals determined the property leased by the company may be considered "sold" pursuant to Texas Tax Code section 171.1012(a)(1). Thus, the company was permitted to include the costs related to the leased property in its COGS deduction. Please contact us with any questions.

**URL:** <https://www.txcourts.gov/supreme/orders-opinions/2023/january/january-27-2023/>

**URL:** <https://search.txcourts.gov/SearchMedia.aspx?MediaVersionID=b78854ae-d527-4667-bc1c-0d2a38f4dab9&coa=coa14&DT=Opinion&MedialD=2e79f822-6053-4075-8337-7920439e6dec>

**URL:** [https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2021/STM/210903\\_3.html](https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2021/STM/210903_3.html)

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